

**BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS**  
**IN MEDICINE AND SURGERY**

IN THE MATTER OF: ) **Case No.: 3307**  
)  
**HENRY TOMLINSON, D.O.** ) **CONSENT AGREEMENT FOR LETTER**  
Holder of License No. 2639 ) **OF CONCERN AND NON-**  
) **DISCIPLINARY ORDER FOR**  
) **CONTINUING MEDICAL EDUCATION**  
For the practice of osteopathic medicine in the )  
State of Arizona )  
)  
)  
)  
)

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Henry Tomlinson, D.O. (hereinafter "Respondent"), the parties, hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Consent Agreement for Letter of Concern and Non-Disciplinary Order for Continuing Medical Education; and, Respondent is aware of and understands the content of these documents.

2. Respondent understands that by entering into this Consent Agreement for Letter of Concern and Non-Disciplinary Order for Continuing Medical Education, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the Consent Agreement for Letter of Concern and Non-Disciplinary Order for Continuing Medical Education in state or federal court.

3. Respondent understands that this Consent Agreement for Letter of Concern and Non-Disciplinary Order for Continuing Medical Education will not become effective unless approved by the Board and signed by its Executive Director.

4. Respondent further understands that this Consent Agreement for Letter of Concern and Non-Disciplinary Order for Continuing Medical Education, once approved and signed, shall constitute a public record. This Consent Agreement for Letter of Concern and Non-

Dec 07 06 05:25p

1 Disciplinary Order for Continuing Medical Education is not an adverse action that is reportable  
2 to the National Practitioner or Healthcare Integrity Databanks

3 5. Respondent acknowledges and accepts the imposition of the statement of facts  
4 and conclusions of law contained in the Consent Agreement for Letter of Concern and Non-  
5 Disciplinary Order for Continuing Medical Education.

6 6. All admissions made by Respondent are solely for final disposition of this matter  
7 and any subsequent administrative proceedings or litigation involving the Board, Respondent and  
8 the State of Arizona; and, therefore, said admissions by Respondent are not intended for any  
9 other purpose or administrative regulatory proceeding or litigation in another state or federal  
10 court.

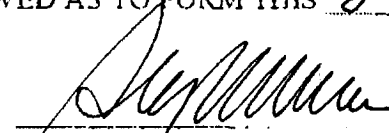
11 7. Respondent acknowledges and agrees that upon signing and returning this  
12 document (or a copy thereof) to the Board's Executive Director, he may not later revoke or  
13 amend any part of the Consent Agreement for Letter of Concern and Non-Disciplinary Order for  
14 Continuing Medical Education, without first obtaining Board approval.

15 REVIEWED AND ACCEPTED THIS 7<sup>th</sup> DAY OF December, 2006.

16  
17 

18 Henry Tomlinson, D.O., Respondent

19  
20 REVIEWED AS TO FORM THIS 8<sup>th</sup> DAY OF DECEMBER, 2006.

21  
22 

23 Stephen W. Myers, Attorney for Respondent

24 **JURISDICTIONAL STATEMENTS**

25 1. The Board is empowered, pursuant to A.R.S. §§ 32-1800 et seq. to regulate the  
licensing and practice of osteopathic medicine in Arizona.

1           2.     The Board has the authority to informally dispose by stipulation, agreed  
2 settlement, consent order or default pursuant to A.R.S. § 41-1092.05 (F) (5).

3           3.     Respondent holds license No. 3194 to practice osteopathic medicine in Arizona.

4                           **FINDINGS OF FACT**

5           4.     The Board, its' Medical Consultant and an Independent Outside Medical  
6 Consultant reviewed several of Respondent's patient charts for care that occurred between  
7 August 2002 through November 2003.

8           5.     In the course of completing these chart reviews, there were several instances in  
9 which the Board's medical consultants were of the opinion that Respondent failed to complete all  
10 necessary medical records.

11          6.     In addition, there were several cases in which the Board's medical consultants  
12 were of the opinion that Respondent failed to provide proper follow up care to these patients.

13                           **CONCLUSIONS OF LAW**

14          1.     Pursuant to A.R.S. § 32-1800, et seq. the Arizona Board of Osteopathic  
15 Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

16          2.     Pursuant to the provisions of A.R.S. § 32-1855 (D)(2), "If, after completing its  
17 investigation, the board finds that the information provided pursuant to this section is not of  
18 sufficient seriousness to merit direct action against the physician's license, it may take any  
19 combination of the following actions:

- 20                   •     File a letter of concern;
- 21                   •     In addition to the requirements of section 32-1825, Require  
22 continuing medical education on subjects and within a time period  
23 determined by the board.

24          3.     Based on the information presented, the Board found there was insufficient  
25 evidence to conclude that Respondent's conduct constituted unprofessional conduct or to support  
direct action against your license.

**THEREFORE, IT IS ORDERED AND AGREED AS FOLLOWS:**

1. The Respondent shall receive a **Letter of Concern**<sup>1</sup> because the Board is concerned that Respondent may not have provided adequate follow up care for some of the above-referenced patients and may not have kept complete and accurate medical records which may ultimately lead to violations of (6) and (21), which state:

- Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard.
- Any conduct or practice that impairs the licensee's ability to safely practice medicine or that may reasonably be expected to do so.

2. Respondent shall also, at his own expense, complete an assessment program, within 120 days,<sup>1</sup> by Physician Assessment and Clinical Education Program ("PACE") at the University of California, San Diego regarding Respondent's ability to safely practice medicine in the State of Arizona, specifically in the areas of adequate follow-up patient care and maintaining complete and accurate medical records. (This period of time may be extended by the Board's Executive Director if Respondent has diligently attempted completion, but completion has been delayed not due to the fault of Respondent.) Any and all reports, assessments or other documents generated by PACE shall be forwarded by PACE to the Board for review.

(a). Respondent shall submit an application and fee to the PACE program no later than twenty (20) days after the receipt of this Non-Disciplinary Order for Continuing Medical Education.<sup>2</sup>

(b) The contact person and information for the PACE program is:

Carole Sussman, Ph.D.  
Associate Director  
Physician Assessment and Clinical Education Program (PACE)  
University of California San Diego  
1899 McKee St. Suite 126  
San Diego, CA 92110-1976

<sup>1</sup> Respondent has obtained confirmation of scheduled assessment by PACE to commence January 16, 2007.

<sup>2</sup> Respondent has already done so.

619.543.7495  
FAX: 619.543.2353  
<http://www.paceprogram.ucsd.edu>

3. Respondent's failure to comply with the requirements of this Agreement and Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and may be considered as grounds for further disciplinary action (e.g., suspension or revocation of license).

4. Respondent will be afforded an opportunity to address the Board and present argument if he disagrees with any of the recommendations from PACE program. The Board may review the recommendations from the PACE program and adopt, modify, change and/or order additional Continuing Medical Education as necessary.

5. Respondent shall pay the Board's costs incurred for outside medical consultants in this matter, not to exceed \$6,000.00.



ISSUED THIS 4TH <sup>JANUARY 2007</sup> DAY OF ~~DECEMBER, 2006~~.  
STATE OF ARIZONA  
BOARD OF OSTEOPATHIC EXAMINERS IN  
MEDICINE AND SURGERY

By: [Signature]  
Jack Confer, Executive Director

Original filed this 4TH <sup>JANUARY 2007</sup> day of ~~December, 2006~~ with the:

Arizona Board of Osteopathic Examiners  
In Medicine and Surgery  
9535 East Doubletree Ranch Road  
Scottsdale AZ 85258-5539

Copy sent via certified, return receipt requested  
this 4TH <sup>JANUARY 2007</sup> day of ~~December, 2006~~ to:

Henry Tomlinson, D.O.  
10842 N. Arista Lane  
Fountain Hills, AZ 85268

1 Copies sent via regular mail  
2 this 4TH day of ~~December, 2006~~ to:  
3 JANUARY 2007

4 Blair Driggs, AAG  
5 Office of the Attorney General CIV/LES  
6 1275 West Washington  
7 Phoenix AZ 85007

8 Stephen W. Myers  
9 Myers & Jenkins, P.C.  
10 3003 North Central Avenue, Suite 1900  
11 Phoenix, AZ 85012

12  
13 <sup>1</sup> A Letter of Concern is a non-disciplinary action that remains part of the public record of your  
14 license for five years from the date of issuance (October 21, 2006). During those years it will  
15 be provided in response to requests for copies of your license file or verifications of license  
16 status, including being posted on the Board's website. It also may be cited in future actions  
17 against your license. Because it is not a disciplinary action, it is not reported to the  
18 National Practitioner Data Base or Health Care Integrity and Protection Databank. Based on the  
19 information presented, the Board found that there were no violations of state law or rule  
20 directly related to the complaint.  
21  
22  
23  
24  
25